IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7854 OF 2007

Ashok Namdeo Kamble ... Petitioner

V/s.

Housing Development Finance Corporation Limited & Anr. ... Respondents

Mr. R.V. Bansode for the Petitioner

Mr. H.H. Thakore with Ms. Agnes Baradia for the Respondents.

CORAM: **J.N. PATEL AND A.A. SAYED, JJ.**

DATE: **NOVEMBER 2, 2007**

P.C.:-

1. This petition is filed by the petitioner challenging the notice issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter, for short, "the Act") by the respondent-Bank on various grounds. One of the major issues raised in the petition is that the property in question is already mortgaged to the employer of the petitioner; and, therefore, it

could not have been again mortgaged with the respondent-Bank and, consequently, the respondent-Bank would have no jurisdiction to claim a right in the property.

2. There is no dispute over the fact that the petitioner had taken loan from the respondent-Bank by mortgaging the property by creating an additional charge in favour of the respondent-Bank; and, therefore, we do not think that in our Writ Jurisdiction, we should take up this issue as to whether the Bank is entitled to initiate proceedings against the petitioner and secure their interest by attaching the property mortgaged with them.

3. The petitioner has an alternate remedy of preferring an appeal to the Debts Recovery Tribunal under the Act; and, therefore, the petition is dismissed. Interim orders, if any, stand vacated.

J.N. PATEL, J.

A.A. SAYED, J.